IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 30TH JULY 2007 / 8TH SRAVANA 1929

WP(C).No. 22957 of 2007(G)

PETITIONER:

P.KRISHNAMOORTHY, S/O PAZHANIYAPPAN CHETTIAR, AGED 40 YEARS, KANNAN DEVAN TEA BUNK, MUNICIPAL BUS STAND, PALAKKAD, RESIDING AT VANIATHARA, P.O.VENGODI, ELAPPULLY, PALAKKAD.

BY ADV. SRI.RAJESH SIVARAMANKUTTY

RESPONDENTS:

1. **THE HON'BLE OMBUDSMAN FOR LOCAL SELF GOVERNMENT INSTITUTION, BARTON HILL BUNGLOW, KUNNUKUZHI POST, TRIVANDRUM.**
2. **THE DISTRICT COLLECTOR, PALAKKAD.**
3. **THE PALAKKAD MUNICIPALITY, REP. BY ITS SECRETARY, MUNICIPAL OFFICE, PALAKKAD.**

R2 BY SENIOR GOVERNMENT PLEADER SRI.K.J.MOHAMMED ANZAR
R3 ADV. SRI.V. CHITAMBARESH (SC)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.M.JOSEPH, J.

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WP.(C) No. 22957 of 2007

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Dated this the 30th day of July, 2007

JUDGMENT

Petitioner has approached this court feeling aggrieved by the issuance of Ext.P7. He seeks a direction to consider and pass orders on Ext.P6 and also seeks a direction to restrain the third respondent from enforcing Ext.P7 pending consideration of Ext.P6 by the first respondent.

2. Case of the petitioner in brief is as follows:

Petitioner is a physically challenged person with a medically certified 65% permanent disability. Ext.P1 is a medical certificate produced to show his medical handicapness. By Ext.P2 petitioner was granted permission to erect advertisement bunk in the Municipal bus stand to sell tea. An agreement was executed and monthly rent was fixed at Rs.300/-. Rent came to be enhanced to Rs.600/-. Petitioner had approached this court earlier challenging the same as is evident from Ext.P3 judgment. Thereafter petitioner is served with Ext.P7 dated 4.6.2007 by which the third respondent has intimated the

petitioner about the enhancement of the license fee from Rs.600/- to Rs.720/- from 1.4.2005 onwards. Petitioner has preferred Ext.P6 before the first respondent.

3. I heard learned counsel for the respondents also. Learned counsel for the third respondent Sri.V.Chitambaresh points out that the approach made to the first respondent is without warrant, as, if the petitioner is aggrieved by the marginal increase of Rs.120/-, petitioner has a right of appeal to the Tribunal for Local Self Government under Section 509 of the Municipalities Act. He also submits that there is no basis for the challenge to Ext.P7. He further submits that the first respondent has no jurisdiction in the matter.

4. Learned counsel for the petitioner points out that it is after the petitioner moved the first respondent that Ext.P7 was issued. Of course petitioner has a case that the treatment rendered against the petitioner constitutes maladministration as there is discrimination. Petitioner had approached the first respondent vide Ext.P6 and it is pending consideration of the same that Ext.P7 has been issued and he submits that at any rate the proceedings vide Ext.P7 may be kept in abeyance

for sometime so that he can obtain relief from the first respondent. According to him he has in fact challenged the very decision taken to enhance the rent. He claims that he continues to pay Rs.600/-.

5. Having regard to all facts, I feel that Ext.P7 should be kept in abeyance for a reasonable period of time so that petitioner can seek relief from the first respondent.

Leaving open all the contentions of the respondent Municipality, the writ petition is disposed of directing that Ext.P7 shall be kept in abeyance for a period of three weeks from today.

(K.M. JOSEPH, JUDGE)

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